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1 Q With respect to the request for
2 waiver, did Lisa draft that document?
3 A. I believe she did, yes.
4 Q Did you review the document?
5 A. Yes, I did.
6 Q And do you recall whether or not you
7 brought that document to anybody else's
8 attention?
9 A. No.
10 Q In other words, you didn't bring it to
11 anybody else's attention?
12 A. No. I notified -- not this document,
13 but I notified Kurtis of the reason we had to do
14 this document. But not this particular waiver.
15 Q And what did you tell Kurtis?
16 A. That they didn't like -- they were
17 dissatisfied with the way he disconnected the
18 customers. And they didn't like the letter that
19 was sent to the customers.
20 Q So once you received notification from
21 the FCC and the State of Vermont that there was

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1 some problem on their end with what you had done,
2 you brought that matter to Kurtis's attention?
3 A. Yes.
4 Q What, if anything, did he say to you
5 about that?
6 A. I don't remember him saying too much
7 about it because basically, the way I presented
8 it to him, I told him that they weren't
9 satisfied, you know, with the process. And this
10 is how we were going to handle it. And I think
11 he just said okay.
12 Q And what did you tell him in terms of
13 how you were going to handle it?
14 A. That we were going to request a waiver
15 to -- for those requirements to send the letter.
16 And I let him know that, you know, the reason why
17 it was lacking and that was it.
18 Q The letter that I'm going to show you
19 now is -- bears a date of January 3, 2003, it's
20 from the State of Vermont Department of Public
21 Service. It's addressed to Marlene H. Dorge

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1 (phonetic), secretary of the Federal
2 Communications Commission. It includes a number
3 of attachments. The letter itself is three pages
4 in length and it's signed by Sarah Hoffman. And
5 as cc's, your name is listed. I'd like you to
6 just take a look through this letter.
7 (Witness Reviewing Document.)
8 Q Do you recall receiving a copy of that
9 letter?
10 A. Yes.
11 Q Did it include the attachments that
12 appear with the copy that I have given you?
13 A. I believe it did.
14 Q And those attachments include what, if
15 you could describe them briefly.
16 A. The introduction and background for
17 this order, finding the facts.
18 Q The order came from whom?
19 A. The Vermont Public Service Board.
20 Q And was there -- are there any other
21 attachments?

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1 A. Final stipulation and the
2 Discontinuance of Service Letter.
3 Q When you received the January 3 letter
4 from Sarah Hoffman, did you read through it?
5 A. Yes.
6 Q Do you recall whether or not you
7 brought it to anybody's attention?
8 A. Yes. I notified Kurtis.
9 Q Did you give him a copy of the letter?
10 A. I'm not sure if I gave him a copy. I
11 may have taken the one that was given to me.
12 Q Taken the one that was given to you
13 and simply shown him that you had received this
14 letter?
15 A. I think I may have put it in his box
16 for him to read.
17 Q Do you recall discussing the contents
18 of the letter with him in any way?
19 A. No. Not all of it, no.
20 Q I'd like to go through a number of
21 points in the letter This appears on page two.

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1 If you could read to yourself point one.

2 (Witness Reviewing Document.)

3 Q At the time you received this

4 letter -- and I take it, it was roughly close to

5 January 3, 2003 -- did you understand from point

6 one that what the State of Vermont was arguing

7 was that Business Options Inc. had not told the

8 entire truth with respect to material in the

9 63.71 application?

10 A. Yes.

11 Q Did you understand that that was a

12 very serious charge?

13 A. No. Not at the time. I took it for

14 what it said. That it was judgment credibility.

15 Q Did you feel the need to respond to

16 that charge?

17 A. I believe we did respond to it. I

18 believe at some point, I think -- I can't

19 remember exactly when the response was done. But

20 I think I did respond to it, I think.

21 Q When you think of response, did you

1 Q Did anybody review the letter before

2 it went out?

3 A. No.

4 Q Is this the letter this you're

5 thinking of in terms of responding to Sarah

6 Hoffman?

7 A. Yes.

8 Q The letter says it's in response to a

9 December 31 letter from Sarah Hoffman, which I

10 don't have at my finger tips, as opposed to the

11 January letter that we were looking at that had

12 been addressed to the FCC

13 MR HAWA I have it.

14 Q Your counsel is placing in front of

15 you a December 31 letter.

16 A. Yes.

17 Q That's addressed to you?

18 A. Yes.

19 Q It's from the State of Vermont?

20 A. Yes.

21 Q Does that letter -- does the State of

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1 respond to Sarah Hoffman or did you respond to

2 the FCC or both?

3 A. I think it was from Sarah. There was

4 another letter that was sent to me. And I

5 believe that she was outlining that she had a

6 problem with some of the things that were in

7 here. And she said that possibly that it could

8 be -- she could understand better if I explained

9 why we did that.

10 Q What I want to show you is a letter

11 dated January 8, 2003. It's on the letter head

12 of Business Options Inc. It's addressed to Sarah

13 Hoffman. It's a three-page letter. Apparently,

14 this was faxed to her according to the notations

15 at the top of the page.

16 A. Un-huh.

17 Q First, if you could turn to page

18 three, is that your signature?

19 A. Yes.

20 Q Did you draft this letter?

21 A. Yes, I did.

1 Vermont letter include the argument that the

2 63.71 application was stretching credibility?

3 A. Which one?

4 Q The December 31 letter from the State

5 of Vermont.

6 A. Yes.

7 Q And could you point out in the January

8 letter to Sarah Hoffman where, if at all, you

9 responded to that argument.

10 A. In number seven.

11 Q What is it that was said?

12 A. What was said?

13 Q Yes.

14 A. This is a business decision strictly

15 in terms of our being able to finalize a

16 stipulation and focus our energies in other areas

17 of our business.

18 Q The next charge that was included in

19 the January 3 letter from Sarah Hoffman to the

20 FCC In point two, if you could read that to

21 yourself, please.

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1 (Witness Reviewing Document.)
2 Q Did you send anything to the FCC in
3 response to the charge made in point two?
4 A. I don't think so.
5 Q I may not have asked this question
6 with respect to the charge that was made in point
7 one. The charge that was made in point one,
8 we've talked about a letter that was ultimately
9 sent to the State of Vermont. Do you recall
10 whether there was any response sent to the FCC in
11 terms of the charge that was made in point one of
12 the January 3, 2003 letter?
13 A. From Business Options?
14 Q Correct.
15 A. I don't recall. I remember the
16 requirement of what we sent to Vermont needed to
17 go to the FCC, I remember that part.
18 Q With respect to the charge made in
19 point two, that charge roughly is that Business
20 Options was not being fully truthful in claiming
21 that it didn't know what the requirements of

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1 section 63.71 were.
2 I take it that your position on that
3 would be, "Well, we didn't know because we
4 didn't." Would it be fair to say -- and you're
5 nodding yes?
6 A. Yes.
7 Q I take it that it would be fair to say
8 that your reason for saying you didn't know was,
9 that at the time, you had not looked it up?
10 A. That's correct. And I guess the best
11 way to explain it is that we did not look it up
12 in the beginning and we did not follow -- because
13 we didn't look it up, we didn't follow exactly
14 what needed to be done the way it was set out in
15 the regulations. And we relied on the
16 information that was provided for us here as far
17 as what needed to be done. And we relied on
18 other people telling us what needed to be done
19 instead of us looking it up for ourselves.
20 Q In terms of relying on what other
21 people told you, you're referring to the

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1 conversations that occurred with FCC employees?
2 A. Yes and Vermont.
3 Q And Vermont?
4 A. Yes.
5 Q Again, I think the only person who's
6 been mentioned with respect to Vermont is Sarah
7 Hoffman?
8 A. I believe, yes.
9 Q Was there anybody else that you had
10 conversations with?
11 A. I think I spoke with Marlene Dorge at
12 one time, but I don't remember speaking to anyone
13 else. With Vermont, Sarah Hoffman.
14 Q Something that I overlooked previously
15 when we were looking at the request for waiver
16 that had been sent to the FCC at the same time as
17 the section 63.71 application. And that is: Do
18 you have any recollection as to who suggested to
19 BOI that it prepare such a waiver?
20 A. Either John Adams or John Mincoff. He
21 called -- specifically, Lisa called to find out

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1 what we could do to repair this. And that's when
2 we were -- it was told to us that we could try
3 for the waiver and how to put it together.
4 Q When you say "repair this," could you
5 amplify what is it that you're thinking of?
6 A. When they didn't accept what we sent
7 them and we realized that they were pretty upset
8 about it. Of course, we wanted to repair
9 whatever damage we created so we --
10 Q I understood from looking at the two
11 documents, and I'm not sure if you've got copies
12 of them right in front of you or if I took them
13 back. I understood that the request for the
14 waiver and the section 63.71 application were
15 sent simultaneously. You see that both of them
16 bear the date of December 20, 2002?
17 A. Uh-huh. Yes.
18 Q Does that help in any way in terms of
19 jogging your memory as to how it is that the
20 request for waiver came to be sent? Because I
21 believe your testimony suggests that the 63.71

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1 application was actually submitted, that there
2 was then some discussion with --
3 A. We were notified from Vermont that it
4 wasn't acceptable. I was called. And this was
5 before we had gotten to the process of sending
6 you a copy of what we sent Vermont. And when
7 Vermont told us that they were dissatisfied with
8 it and that they were going to notify the FCC
9 concerning, you know, their dissatisfaction about
10 it, we called the FCC to try to find out how we
11 could fix it. And then that's when they told us
12 about the waiver. And so when we had to send a
13 copy of the application to you, we submitted the
14 waiver along with it.
15 Q So in other words --
16 MR HAWA It's clear that we're
17 getting confused to what was in response. What
18 we might want to do in a little chronology, what
19 was submitted, what was the communication with
20 Vermont, what they were dissatisfied with, what
21 you did in response to that. And let's work our

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1 way through December here.
2 MR SHOOK Right. That's what I was
3 going to try to find out was what had actually
4 been sent to Vermont. Because apparently some
5 other document or some communication had occurred
6 with Vermont independent of --
7 MR HAWA The disconnection notices
8 that went out.
9 BY MR SHOOK
10 Q So if you could perhaps tell us what
11 it was that was actually sent to the State of
12 Vermont or what came to the State of Vermont's
13 attention that lead to the preparation of the
14 request for waiver.
15 A. Vermont asked us to give them some --
16 to give them a copy of whatever we sent to the
17 customer, I think. Or they wanted a regular
18 update. And so they were always sending us
19 documents and calling me and asking -- even in
20 the letter, I was trying to combine a lot of the
21 information that she was, you know, asking me for

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1 as much as possible so we could stay on track
2 with the time line. But once we realized that
3 when she notified us that she wasn't satisfied
4 with it, then that's when we contacted the FCC to
5 find out what we could do. And that's how -- the
6 requirement was that we send the FCC a copy of
7 our Discontinuance Notice. And we were told to
8 submit the application -- the waiver along with
9 it.
10 Q So there was a letter or something
11 that had been sent to the State of Vermont prior
12 to December 20th that ultimately triggered the
13 request for waiver?
14 A. Yes.
15 MR HAWA I'm not sure we're quite
16 there.
17 MR SHOOK No. But I think without
18 the actual document -- without actually seeing
19 whatever it was that was sent to State of
20 Vermont, we're probably going to have a little
21 hole here.

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1 MR HAWA I think what she's saying
2 is, she sent a copy of the Discontinuance Letter
3 that went to customers to Vermont.
4 MR SHOOK That's what I understood
5 her to have said. Unless we could actually see
6 the transmittal that went to Vermont along with
7 whatever it was that was sent with that
8 transmittal, we're probably going to be a little
9 fuzzy here.
10 MR HAWA Maybe we'll do a
11 five-minute break.
12 MR SHOOK Okay. Why don't we take a
13 break.
14 (A short break was taken.)
15 BY MR SHOOK
16 Q I recognize that some of our dialogue
17 may be a little bit confusing when we look at
18 this later on because there are times when we
19 perhaps don't refer to the State of Vermont or
20 the FCC or particular individuals, so I'll try to
21 keep that in mind when I'm speaking with you.

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1 And if you could also, please, pursuant to your
2 counsel's sage advice, to do the same.
3 **A. Uh-huh.**
4 **Q** I want to go back to January 3 letter
5 that Sarah Hoffman sent to the FCC And at this
6 time, I'd like you to read to yourself point
7 three
8 **A.**
9 (Witness Reviewing Document.)
10 **Q** With respect to the allegation that
11 appears in point three, do you have any
12 recollection of sending any writing to the FCC
13 responding to that charge?
14 **A. No.**
15 **Q** With respect to point four of Sarah
16 Hoffman's January 3, 2003 letter to the FCC --
17 first of all, please read it to yourself.
18 (Witness Reviewing Document.)
19 **A. I don't remember.**
20 **Q** Do you have any recollection of
21 sending any response to the FCC with respect to

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1 the charge that appears in point four of Sarah
2 Hoffman's letter?
3 **A. I remember a response -- several**
4 **responses that I sent to the FCC, but I'm not**
5 **quite certain what they actually contain right**
6 **now.**
7 **Q** I'll show you eventually some material
8 that was sent to the FCC All I can tell you is
9 that I don't remember seeing anything from
10 Business Options that addresses point four. And
11 I was just wondering if perhaps you remembered
12 something.
13 **A. No.**
14 **Q** If you would please look at the
15 paragraph that reads "The inaccuracies in BOI's
16 application are intentional and grossly
17 misleading. Because of the inaccuracies in BOI's
18 application, the department recommends that the
19 filing be rejected by the FCC And sanctions be
20 applied as our just and equitable." Did you send
21 any writing to the FCC arguing that Sarah

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1 Hoffman's argument that appears in this January 3
2 letter was wrong?
3 **A. No, we didn't.**
4 **Q** Do you recall bringing to Kurtis's
5 attention that Sarah Hoffman was claiming to the
6 FCC that Business Options had sent an inaccurate
7 and grossly misleading document?
8 **A. Yes.**
9 **Q** You did. And what did Kurtis say
10 about that?
11 **A. That's when we discussed -- that's**
12 **when I brought it to Kurtis's attention and**
13 **explained to him what we were going to do about**
14 **it. And the response was, we were going to**
15 **request a waiver.**
16 **Q** That may be a little bit difficult to
17 factor in here because you'll notice that the
18 letter from Sarah is dated January 3 -- the
19 letter from Sarah is dated January 3, 2003, it's
20 sent to the FCC
21 **A. Yes.**

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1 **Q** The request for waiver was sent
2 December 20th?
3 **A. Yes.**
4 **Q** What I'm asking is, whether there was
5 anything sent subsequent to January 3, 2003 to
6 respond to or otherwise argue with the arguments
7 that Sarah Hoffman made to the FCC?
8 **A. I know I talked to her on the**
9 **telephone one morning. That, I remember. And I**
10 **was explaining to her basically what we had**
11 **responded to, why we didn't believe that it was**
12 **grossly misleading.**
13 **MR. HAWA** May I propose a question?
14 **MR. SHOOK** Sure.
15 **MR. HAWA** Did Sarah Hoffman contact
16 you by telephone raising substantially similar
17 concerns as are drafted in this January 3rd
18 letter between the submission of your
19 Discontinuance Application -- Discontinuance
20 Notices to customers, but prior to your filing of
21 the discontinuance -- I'm getting confused.

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1 MR SHOOK The focal point of my
2 questioning here is whether you sent anything to
3 the FCC after January 3, 2003, that said, "Hey,
4 the State of Vermont is wrong."

5 THE WITNESS The only thing that I
6 remember is speaking with her and she explained
7 to me over the telephone what the problem was.
8 And requesting an update of our activities. And
9 I provided her with that information. And I
10 explained why, which is in, I think, this letter.

11 BY MR SHOOK

12 Q "This letter," meaning what?

13 A. **January 8, 2003 letter.**

14 Q That you sent to the State of Vermont?

15 A. **Right. And I think that it explains**
16 **what happened.**

17 Q So you sent an explanation to the
18 State of Vermont, but you don't remember whether
19 or not you sent an explanation to the FCC?

20 A. **No. There was no explanation that I**
21 **remember ever going to the FCC. All of our**

1 have done anything differently?

2 A. **Most definitely.**

3 Q What would you have done?

4 A. **I would have made sure that I**
5 **looked -- I did the research on the regulations**
6 **and followed it to a T. And probably been a**
7 **little more stern as to my recommendation to**
8 **Kurtis that we exactly follow the rules to a T.**

9 Q The next letter that I want to show
10 you is one dated November 1, 2002. It was sent
11 by certified mail to the legal department at
12 Business Options Inc. And it is six pages in
13 length. And then there are two pages of an
14 attachment. Attachment A -- and why don't you
15 scan the letter and I can ask some questions
16 about it.

17 (Witness Reviewing Document.)

18 Q This letter was directed to yourself
19 eventually?

20 A. **Yes.**

21 Q Were you the person who was primarily

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1 **correspondence was directly with Vermont. And**
2 **the only thing that from at the that time that we**
3 **understood was that we needed to send you a copy**
4 **of our Application for Discontinuance.**

5 Q Which you had done on December 20,
6 2002?

7 A. **Yes.**

8 Q Just to tell you where I'm coming
9 from, I didn't want to find out later on that
10 there was a letter that had actually been sent by
11 Business Options subsequent to January 3, 2003
12 that set forth whatever explanation you had, for
13 defense, you had for the charges that Sarah
14 Hoffman had made in that January 3, 2003 letter.

15 A. **I honestly don't recall. I just**
16 **recall mailing in a letter. I recall talking to**
17 **her on the telephone and submitting this letter.**

18 Q "This letter," meaning the January 8
19 letter to the State of Vermont?

20 A. **Yes, sorry.**

21 Q Given what you know today, would you

1 responsible for responding to it?

2 A. **I guess you could say in the end, the**
3 **final product was my responsibility, yes.**

4 Q Did you bring this letter to Kurtis's
5 attention?

6 A. **Yes.**

7 Q Did you give him a copy of it?

8 A. **Yes.**

9 Q Did it -- I recognized that the
10 context of this in the sense of when it was that
11 you came to be employed at Business Options, you
12 wouldn't necessarily know this, but did you view
13 this as a serious matter?

14 A. **Yes.**

15 Q Did you have -- in the conversations
16 you had with Kurtis, did you have any
17 understanding from him as to whether or not he
18 viewed this as a serious matter?

19 A. **I assumed he did.**

20 Q Do you have any knowledge as to
21 whether or not he actually read the letter?

| | |
|---|---|
| <p style="text-align: right;">Page 77</p> <p>1 A. Yes.</p> <p>2 Q And what is it that lead you to that</p> <p>3 conclusion?</p> <p>4 A. I'm not sure about the first page or</p> <p>5 the second page, but I remember the section under</p> <p>6 documents and information should be provided.</p> <p>7 I'm sure he read that.</p> <p>8 Q In other words, the 12 specific</p> <p>9 subject areas that the FCC wanted information on?</p> <p>10 A. Yes.</p> <p>11 Q And in terms of your believing that he</p> <p>12 had read throughout that, did you and he actually</p> <p>13 discuss point by point what needed to be done?</p> <p>14 A. Yes.</p> <p>15 Q Do you recall approximately when you</p> <p>16 had this conversation with him in terms of -- you</p> <p>17 can tell that the letter is dated November 1, so</p> <p>18 go from there.</p> <p>19 A. I'm not sure exactly what day, but I</p> <p>20 remember sitting in his office across the desk</p> <p>21 from him -- because at that time, I didn't know</p> | <p style="text-align: right;">Page 79</p> <p>1 Q Your recollection is a little fuzzier</p> <p>2 with respect to points one and two. With respect</p> <p>3 to point two, what did it say?</p> <p>4 A. "Provide evidence that BOI has</p> <p>5 complied with the registration requirements</p> <p>6 pursuant to 47 CFR 64.1195."</p> <p>7 Q Did you look up that section?</p> <p>8 A. No, we didn't.</p> <p>9 Q Have you at any time looked up that</p> <p>10 section?</p> <p>11 A. I'm sure I have, yes.</p> <p>12 Q In terms of responding to the November</p> <p>13 1 letter from the FCC, your recollection is that</p> <p>14 you did not look up that section to find out what</p> <p>15 it said?</p> <p>16 A. No, I didn't.</p> <p>17 Q Do you have any explanation as to why</p> <p>18 you didn't look it up?</p> <p>19 A. At that time, I believe that the</p> <p>20 registration requirements were the requirements</p> <p>21 that we were properly certified.</p> |
| <p style="text-align: right;">Page 78</p> <p>1 who to go to for the information. And I remember</p> <p>2 sitting across from his desk and writing down</p> <p>3 which departments to go to for what information.</p> <p>4 Q So you and he would look at, say,</p> <p>5 point one and if you could read that out loud,</p> <p>6 please</p> <p>7 A. "Describe BOI's corporate structure</p> <p>8 including a description of each subsidiary or</p> <p>9 affiliate identified. Also provide a list of</p> <p>10 officers and directors for each affiliate entity.</p> <p>11 Provide all relevant documents."</p> <p>12 Q So certainly, in early November of</p> <p>13 2002, you would have had no idea whatsoever how</p> <p>14 to respond to that?</p> <p>15 A. No.</p> <p>16 Q And so you and Kurtis talked about it?</p> <p>17 A. Yes.</p> <p>18 Q And what did he tell you?</p> <p>19 A. I don't remember what he told me about</p> <p>20 that portion. I remember specifically going over</p> <p>21 three through twelve.</p> | <p style="text-align: right;">Page 80</p> <p>1 Q You interpreted that question in terms</p> <p>2 of your ability to do business in the various</p> <p>3 states?</p> <p>4 A. Uh-huh. Yes.</p> <p>5 Q That was how you understood that</p> <p>6 question?</p> <p>7 A. Yes.</p> <p>8 Q But that was without the benefits of</p> <p>9 having looked up the rule --</p> <p>10 A. Exactly.</p> <p>11 Q -- to see what it said?</p> <p>12 A. Exactly.</p> <p>13 Q Could you now focus on point three.</p> <p>14 And what did point three want you to do?</p> <p>15 A. During the period of April 1st, 2002</p> <p>16 to ...</p> <p>17 Q Read it out loud, please.</p> <p>18 A. "During the period of April 1st, 2002</p> <p>19 to the present that BOI or any other</p> <p>20 subsidiaries, affiliates or any other entity</p> <p>21 acting under BOI's control or its agent</p> |

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1 submitted, executed and ordered to transfer
2 carrier as specified in the complaints in
3 attachment A." And then, "if so."
4 Q And what did you understand that that
5 section of the letter was asking you to do?
6 A. That they -- that these customers had
7 accused us of unauthorized switches. And the
8 question was asking us, had we switched their
9 service according the way that they complained
10 that we had.
11 Q In terms of way they complained, did
12 you actually see any of the complaints that the
13 customers had made?
14 A. I think I did.
15 Q There's a list of close to 30 people,
16 I believe, if you count them all up. Did you
17 have -- did you look at the complaints of all 30?
18 A. No, I didn't.
19 Q In terms of responding to this letter,
20 do you recall approximately how many complaints
21 you did look at that were listed in attachment A

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1 of the November 1 letter?
2 A. I think we looked -- I personally
3 looked at the ones that were listed in the FCC
4 complaint.
5 Q Which ones are they?
6 A. Barbara Beeson, Fred McAylis
7 (phonetic) and Jane Stack.
8 Q So you looked at three?
9 A. Yes.
10 Q About when did you look at them?
11 A. I think when I got ready to respond to
12 that question.
13 Q With respect to the others that are
14 listed in attachment A, do you know who, if
15 anyone, looked at the complaints that are
16 referenced there?
17 A. I believe -- I'm not sure. I think at
18 that time Amy was still there. Either Amy or
19 Megan, I'm not sure which one was there. But
20 they were taking care of the Maine complaints.
21 Q All of those other complaints are from

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1 the State of Maine?
2 A. Yes.
3 Q And so it's your understanding at this
4 point or recollection at this point that Amy or
5 Megan looked at the other 20-odd complaints that
6 had come from the State of Maine that are noticed
7 in this November 1 letter?
8 A. I'm pretty sure because I directed
9 them to keep track of all the Maine complaints,
10 keep them all together. So they were handling
11 the Maine complaints.
12 Q And with respect to question number
13 three, you had understood it in the context that
14 the complaints were that the switches were
15 unauthorized?
16 A. That's what the -- the customers were
17 saying that. That's what I understood the
18 question to be.
19 Q And what conclusion did you come to
20 after looking at the three complaints that you
21 had referenced, the ones that had been sent

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1 directly to the FCC by Beeson, McAylis and the
2 third person?
3 A. I didn't think that we had.
4 Q That the -- that any switches that had
5 been made were authorized?
6 A. Right, uh-huh.
7 Q That was your understanding of your
8 review of the records?
9 A. Right.
10 Q In terms of the way question number
11 three is phrased, are you telling me that you
12 read in the word "unauthorized" in terms of
13 switches occurring after April 1, 2002?
14 A. Yes. Because that would be the only
15 reason that the customers would be complaining.
16 Q Did you have any understanding as to
17 how switches came about with respect to the three
18 customers that you looked at after -- the
19 switches occurring after April 1, 2002?
20 A. Can you repeat that again?
21 Q Okay. It was a little garbled. With

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1 respect to switches that occurred after April 1,
2 2002 for the three complainants that you looked
3 at, what understanding did you have as to how the
4 switches were actually made?
5 A. Are you asking me if later on after
6 April 1st of 2002 -- I'm not certain --
7 Q In other words, what -- you had to
8 look at something with respect to these
9 individuals, there was some record of some kind
10 that you had to look at?
11 A. Yes.
12 Q Maybe if you just walk me through what
13 it was that you recall looking at, that will help
14 us along here
15 A. I believe it was on-line rep. And you
16 type in the person's phone number and you go to
17 the summary page. And, I think, generally what I
18 would do is, go down to the bottom of the page.
19 And it would have the person's birth date, the
20 day that they were verified and the sale and tape
21 number, sometimes it's listed there. But the

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1 most important thing is that we have that
2 person's birth date.
3 Q Did you have any understanding that
4 the individuals that are named that you looked
5 up, Beeson and McAylis and Stack, I guess Stack
6 was complaining in respect to her mother Bessie
7 Goodbring (phonetic) --
8 A. Uh-huh.
9 Q That a switch had occurred after April
10 1, 2002 that was not related directly to a
11 verification?
12 A. No. I wasn't aware of that.
13 Q You weren't aware of that?
14 A. No.
15 Q And that's because, again, the record
16 that you looked at -- if you could try to
17 describe to us what appeared on the record that
18 you looked at in order to conclude that no
19 unauthorized switch had occurred?
20 A. You just go in and type in the
21 person's phone number, click on the left side of

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1 the screen that says summary page. And it has
2 the billing information and the customer's name
3 and address and whatnot. And then when you
4 scroll down to the bottom of the page, it lists
5 the verification information. And that's
6 available.
7 Q I want to show you some things with --
8 show you some telephone records with respect to a
9 particular individual. And perhaps this will
10 help us understand what happened here.
11 MR HAWA. Before you do, I just
12 wanted to re-visit and clarify a question you
13 asked three for four questions ago. You asked
14 Ms. Dennie whether or not she read in to question
15 three the word "unauthorized."
16 MR. SHOOK. Right.
17 MR HAWA She responded "yes." But
18 by way of clarification, her original testimony
19 was that she read the language, "Has BOI -- it
20 goes on -- ordered a change of preferred carrier
21 as specified in the complaints in attachment A."

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1 She didn't necessarily read in any words other
2 than the plain language of this question. She
3 read this question, did you change the preferred
4 carriers as specified in the complaints. As
5 specified in the complaints is an unauthorized
6 change.
7 MR SHOOK Right.
8 BY MR SHOOK
9 Q Assuming that you had actually read
10 the complaint and I believe you indicated you
11 had?
12 A. Yes.
13 Q So --
14 A. I went through the folder. And I also
15 knew from the complaints that we had, there
16 were -- no one would complain to the FCC unless
17 it was something along those lines.
18 Q Do you have any specific recollection
19 of reading a complaint that Barbara Beeson had
20 made?
21 A. No.

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1 MR HAWA Just to finalize my --
2 MR SHOOK I'm going to see if I can
3 find the complaint. I understand where you're
4 coming from. I think she's explained, you know,
5 adequately how it is that she came to interpret
6 the question
7 BY MR SHOOK
8 Q It turns out that the declaration that
9 I have is from a much -- excuse me. I'm going to
10 show you a document that is seven pages in
11 length. It is a complaint for Barbara Beeson.
12 It has some material from the FCC, the first
13 three pages of the document, specifically a
14 number of -- a tracking number of some kind which
15 is 02-S76279. It reflects that it was received
16 by the FCC on 6-5-2002. And I want to direct
17 your attention to the fourth page. And ask you
18 whether or not you have ever seen this before
19 It's a handwriting that appears to be from
20 Barbara Beeson.
21 MR HAWA And the reason you're

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1 submitting us to the Beeson one is it's
2 illustrative and it's one of the three that
3 she --
4 MR SHOOK Yes.
5 THE WITNESS Vaguely I remember this
6 one. I'm not sure if it was from Barbara Beeson
7 or -- it looks vaguely familiar.
8 BY MR SHOOK
9 Q To put this in some context, the first
10 document of the series of documents that I want
11 to show you is a telephone bill that had been
12 sent by Verizon to Doyle G. and Barbara Beeson.
13 The statement date is for a period that ends
14 March 4th, 2002. And what I would like you to
15 focus on is when you get to page six of that
16 statement.
17 A. Okay.
18 Q Doing some relatively simple math,
19 you'll notice what it is that the per minute
20 charge is for the intrastate calls that are
21 reflected there, do you not?

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1 A. What state is she from?
2 Q She's from Illinois.
3 MR HAWA It's not simple math for
4 me, James. What's the rate?
5 THE WITNESS 30 cents a minute.
6 MR HAWA No. .3 is the length of
7 the call -- no. It's not simple for us, James.
8 MR SHOOK Okay. Then let me do it.
9 The first phone call, for example, is for six
10 minutes. And the charge reflected is 30 cents.
11 So that would be five cents a minute.
12 THE WITNESS Yes.
13 BY MR SHOOK
14 Q And if you go on down from there,
15 you'll notice with to the intrastate calls, they
16 are all five cents a minute.
17 A. Right. Five.
18 Q And the one with respect to Kentucky,
19 that happens to be nine cents a minute, does it
20 not?
21 A. Yes.

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1 Q And you'll also see from the bill that
2 the majority of the calls -- the vast majority of
3 the calls made are within the State of Illinois?
4 A. Yes.
5 (Discussion held off the record.)
6 Q The next document I'd like to show you
7 is from the April 4th, 2002 statement. And this
8 was part of what was sent by Ms. Beeson to the
9 FCC Recognizing that a portion of the bill has
10 been cut off in the photocopying process, I
11 believe a simple comparison would still lead to
12 the conclusion that the per minute charge that
13 was made for the calls that are reflected there,
14 were in the order of 20 cents a minute. Can you
15 see that?
16 A. Uh-huh.
17 Q "Uh-huh," meaning yes?
18 A. Yes.
19 Q To address a point that your counsel
20 raised, let me see if I can find any with same
21 number so to make sure that we're comparing

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1 apples and apples. Okay. It's not exactly the
2 same telephone number, but I believe it's the
3 same local exchange on the April statement. The
4 call to -- looks like Tuscola, T-U-S-C-O-L-A,
5 Illinois, at area code 217-253. If you look at
6 the March 4th, 2002 statements, you'll see a
7 number of calls also made to Tuscola to the 253
8 exchange. And in the portion that was billed on
9 behalf of Business Options, that call is 20 cents
10 a minute, whereas the call on the previous
11 statement, it was five cents a minute to the same
12 local exchange.

13 A. Yes.

14 MR HAWA Business Options had
15 different rates

16 MR SHOOK So for the same call, the
17 Business Options' charge was four times as high.

18 THE WITNESS Yes.

19 MR SHOOK Looking at the next
20 statement --

21 MR HAWA I'm going to have to object

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1 to that. You're looking at an individual
2 origination and termination point. I mean,
3 that's not the way competitors price their rates.
4 I mean, you're looking at the prospective of the
5 entire bill, state to state, intrastate as a
6 whole, to determine whether rates are
7 competitive.

8 MR SHOOK All I'm saying is, with
9 respect to that one in particular call, the
10 exchange. If Barbara was calling area code 217
11 at the 253 exchange, the plan that she had with
12 Verizon was charging her five cents a minute.
13 What she ended up with when she was with Business
14 Options was 20 cents a minute.

15 MR HAWA But for the record, what
16 you're saying is that there is an example of one
17 call with one origination point and destination
18 point where Verizon's rates were more competitive
19 than Business Options' rates. That doesn't apply
20 to whether or not Business Options' rates are
21 more competitive than Verizon's as a whole for a

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1 customer, which I can --

2 MR SHOOK I'm speaking only of this
3 particular customer with respect to the two --
4 the comparison that we were able to make with the
5 two bills.

6 MR HAWA So there is an example of a
7 call where Verizon has better rates than Business
8 Options'.

9 MR SHOOK Right. And not just --
10 that was a specific example. But if you wish, we
11 could go through both bills. And I believe we
12 saw a pattern with respect to the toll charges
13 that were imposed on the Beesons in the March
14 statement that they were uniformly five cents a
15 minute for the intrastate calls, whereas on the
16 subsequent statement, the April 4th statement,
17 charges that were made for intrastate calls were
18 uniformly 20 cents a minute.

19 MR HAWA The intrastate, that's
20 fine.

21 MR SHOOK Right I'm not saying

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1 anything about interstate here.

2 BY MR SHOOK

3 Q The next statement I want to show you
4 is from May 4th, 2002. And the two pages that I
5 want you to focus on are pages five and seven.

6 A. Okay.

7 Q Now, with respect to the dates and
8 amounts here, you'll notice that the charges that
9 appear on page five are charges for telephone
10 calls that are billed on behalf of Business
11 Options Inc. Again, you'll notice that the rate
12 for each of the calls that are noted there from
13 March 28 through April 13th, they're all within
14 the State of Illinois. Most of them -- all but
15 one of them are made to the 217 area code, one of
16 them is made to the 618 area code, but that each
17 of the charges reflected here is uniformly 20
18 cents a minute.

19 A. Yes.

20 MR HAWA In our interrogatories,
21 we -- you asked about the rates. And we

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1 identified intrastate rates at 20 cents a minute.
2 MR SHOOK Right.
3 BY MR SHOOK
4 Q And now when you look at page seven,
5 which reflects calls that were made from April
6 18th through April 22, you will see that the --
7 these are charges that are going to be billed by
8 Verizon and the amount that the customer will pay
9 to Verizon. And that the per minute charge is
10 five cents a minute.
11 A. Yes.
12 Q So one thing that I think one could
13 infer from this was that at some time between
14 April 13th, which is the last date noted for a
15 charge on behalf of Business Options Inc. to
16 April 18th, that somehow a switch occurred from
17 Business Options Inc. to Verizon, would that be a
18 fair inference?
19 A. Yes.
20 Q And that service continued with
21 respect to Verizon or behalf of Verizon at least

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1 between April 18th and April 22?
2 A. Yes.
3 Q The next statement, which -- the
4 statement period is ending June 4th, 2002 And
5 what I'm showing you is page five of that
6 statement. And you will notice that the charges
7 that appear here are, again, being billed on
8 behalf of Business Options Inc.
9 A. Yes.
10 Q And those charges commenced at least
11 at the earliest -- excuse me. No later than
12 April 24th and continue through May 11.
13 A. Yes.
14 Q And once again, the charges appear for
15 intrastate calls at 20 cents a minute?
16 A. Yes.
17 Q So, again, would you say that it was a
18 fair inference that at some point between April
19 22 and April 24, the Beeson service was changed
20 back from Verizon to Business Options?
21 A. Yes.

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1 Q And then to put an end to this,
2 looking at the July 4th statement, you will note
3 on page six that the Beeson service is now back
4 to Verizon again.
5 A. Yes.
6 Q And that the permanent charge is once
7 again five cents a minute for intrastate calls
8 that are noted on this bill?
9 A. Yes.
10 Q Now, with all of this as back drop,
11 you do see, do you not, that there was a switch
12 that occurred between April 22 and April 24 from
13 Verizon to Business Options?
14 A. Yes, I see that.
15 Q In your investigation of the Beeson
16 matter, were you aware that such a change had
17 occurred?
18 A. No, I wasn't.
19 Q In terms of looking at the screen that
20 you referenced, is there any way a printout of
21 that screen could be supplied for the record to

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1 clarify what it was you saw when you looked up
2 the Beeson matter?
3 A. Yes.
4 Q Would it be your recollection and your
5 testimony that you did not see, when you looked
6 up the Beeson matter, that she was placed on
7 Business Options service, then she left Business
8 Options and then she went back to Business
9 Options sometime in April of 2002?
10 A. Whenever I look up any customer, all I
11 see is -- I don't even see the day that they were
12 actually transferred. All I see is the date that
13 they were verified. And I had been instructed
14 to -- as long as we had some sort of verification
15 date or some tape or some correspondence in the
16 remarks section that they accepted the service,
17 then it was not an unauthorized change.
18 Q And to put a -- to add to that, to
19 amplify that matter, if, for example, the
20 verification tape that you saw or saw reference
21 to, reflected that the verification had occurred

| | |
|---|---|
| <p style="text-align: right;">Page 101</p> <p>1 in March of 2002, then it would have been your 2 conclusion that no switch of any kind had 3 occurred subsequent to April 1? 4 MR HAWA I didn't understand that 5 question. 6 Q As I understood Ms. Dennie's 7 testimony, the screen that she looked at 8 reflected, among other things, that a 9 verification had occurred and that there had 10 actually been a date with respect to that 11 verification, or am I reading that in? 12 A. Yes. 13 Q There was a date? 14 A. I believe that there was a date of the 15 verification. 16 Q And if the verification had taken 17 place prior to April 1, which in the case of Ms. 18 Beeson, the verification tape exists for some 19 date in March, then you would have come to the 20 conclusion that no switch of any kind had 21 occurred after April 1, given what you were</p> | <p style="text-align: right;">Page 103</p> <p>1 would be an authorized switch. And that's the 2 way I responded to the questions. 3 Q We may be close to being on the same 4 page, but I'm not sure we're really there. You 5 can see from telephone bills here that there was 6 a switch that occurred initially in March from 7 Verizon to Business Options. And with respect to 8 that switch, we, I think, have an understanding 9 that there's a verification tape of some kind. 10 So that the switch that occurred in March 11 arguably was authorized. What I'm trying to 12 focus on is what happened in April. 13 A. There would be no way -- well, then, I 14 knew of no other way and no one had ever told me 15 of any other way for me to find out if that 16 customer had been switched subsequently to the 17 initial switch. 18 Q All right. And, I think, probably the 19 only way to really get a handle on that would be 20 if there was some possible way we could get a 21 printout of whatever it was that Ms. Dennie</p> |
| <p style="text-align: right;">Page 102</p> <p>1 looking at? 2 A. Right. Because the only switch that I 3 would know that would have occurred was the one 4 that was as the result of the verification. And 5 when I read the question and realized that they 6 were talking about unauthorized switches, I have 7 would have never put the two together because we 8 have the verification. And that's what I was 9 told to look for. To make sure we had a tape or, 10 you know, the verification date on the screen. 11 Q When you looked at that screen, did 12 you have any knowledge that a switch had occurred 13 in April? 14 A. I understand a switch has to take 15 place, but there's no indication that there -- I 16 mean, it's part of the process that a switch take 17 place. So when I saw the verification, okay, of 18 course, the customer is going to go from whomever 19 she was previously to Business Options. You 20 know, if there's a verification date and if 21 there's a tape available at that time, then it</p> | <p style="text-align: right;">Page 104</p> <p>1 looked at, understanding that that might be 2 impossible given that we're now well into 2003 3 and obviously what she looked at was a record 4 that existed in late 2002. 5 MR HAWA And for the record, when he 6 said looking at the telephone bills, he's talking 7 about looking at the telephone bills now, today. 8 Not looking at telephone bills nine months ago. 9 You weren't looking at what you're looking at now 10 then. 11 MR SHOOK Right. I understood from 12 the situation, but let's clarify it. You did not 13 have access to Barbara Beeson's telephone bills 14 from March, April, May and June that I've shown 15 you today? 16 THE WITNESS. No, I didn't. 17 BY MR SHOOK. 18 Q Having used the Beeson situation as a 19 representative example, would it be fair to 20 assume that with respect to the other two 21 complaint matters that you looked at, that being</p> |

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1 for McAylis and Stack on behalf of her mother
2 Bessie Goodbring, that you did not have access to
3 the telephone bills of those individuals --
4 **A. That's correct.**
5 Q -- the McAylis's and Bessie Goodbring?
6 **A. That's correct.**
7 MR HAWA I have an objection. The
8 questions is not whether or not she had access --
9 MR SHOOK Whether she had looked at
10 them.
11 THE WITNESS No. I didn't look at
12 them.
13 BY MR SHOOK
14 Q Now, with respect to point three of
15 the November 1 letter from the FCC, did you and
16 Kurtis discuss the answer that ultimately was
17 given to the FCC?
18 **A. We read it together. And both of us**
19 **understood that if the answer to three was no,**
20 **then the if so's would not be applicable.**
21 Q Along those lines, I want to show you

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1 a letter dated December 9, 2002. It's addressed
2 to the FCC, particularly Peter Wolfe. And the
3 first page has a signature, I just want to verify
4 that that's your signature.
5 **A. Yes.**
6 Q And why don't you briefly take a look
7 throughout that and see whether or not that is
8 what it was that you sent to Mr. Wolfe.
9 (Witness Reviewing Document.)
10 Q The answer is yes?
11 **A. What was the question?**
12 Q Whether what you just looked at, and
13 we'll amplify if for the record, this is what you
14 sent to the FCC?
15 **A. Yes. This is what I sent.**
16 Q The December 9 letter and the various
17 attachments that follow?
18 **A. Yes.**
19 Q And with respect to page two, there
20 are a series of numbered responses, one through
21 six. These were -- the responses that appear

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1 here, are they ones that you personally prepared?
2 **A. Yes.**
3 Q Did anybody else draft them?
4 **A. Kurtis reviewed it. I typed it. And**
5 **I provided some of the responses.**
6 Q. For example, with respect to response
7 number one that shows Kurtis as being a 70
8 percent owner, president, COB and Keanan being 28
9 percent owner secretary/treasurer and director,
10 do you remember how it was you came to have that
11 information?
12 **A. I don't remember -- I got it from**
13 **Kurtis.**
14 Q He told you?
15 **A. What I did was, I typed up a draft. I**
16 **took it in his office and I let him review it.**
17 **And he crossed off -- he changed the percentages.**
18 Q. Do you remember what the percentages
19 were?
20 **A. No, I don't.**
21 MR HAWA Why does my copy say 72 and

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1 28 and this one says 70 and 28.
2 THE WITNESS Because you have the
3 copy that Kurtis changed.
4 (Discussion held off the record.)
5 BY MR SHOOK
6 Q What you remember is that Kurtis
7 looked at it and then changed at least of one of
8 the percentage figures from 72 to 70?
9 **A. Yes.**
10 Q In responding to question number one,
11 did you have the FCC letter with you at the time
12 to look at in order to see whether or not what it
13 was that you had actually responded to what the
14 FCC had been asking for?
15 **A. Did I have this in front of me when I**
16 **was drafting this (indicating)?**
17 Q No. Not in front of you. What I'm
18 focussing on now is when you and Kurtis were
19 looking at the draft that you had prepared --
20 **A. I took this into him independently.**
21 Q. You did not have with you at the time

| | |
|--|--|
| <p style="text-align: right;">Page 109</p> <p>1 the FCC letter November 1, 2002 so that you could 2 compare -- 3 A. No. 4 Q -- side by side, this is what the FCC 5 is asking for and this is what we're saying? 6 A. No. 7 Q You did not? 8 A. No. We went over this previously and 9 then I worked on it. 10 Q When you say "we went over this 11 previously," you and Kurtis had discussed what to 12 do in order to respond to the November 1, 2002 13 letter, but that when you and Kurtis actually 14 looked at the draft responses that you had 15 prepared that ultimately became page two of this 16 December 9 letter to Peter Wolfe, the November 1, 17 2002 letter was not there so that you could look 18 side by side? 19 A. No. Not at the same time, no. 20 Q So with respect to the response to 21 question number two, did Kurtis change that</p> | <p style="text-align: right;">Page 111</p> <p>1 through eleven, if you could, please, look at the 2 next page of the December of the 9 letter that 3 went to Peter Wolfe. I'm going to ask you 4 whether that was what you had intended to send to 5 the FCC in response to questions seven through 6 eleven of its November 1, 2002 letter? 7 A. Yes. 8 Q Who is Gene Chill. 9 A. He was vice-president of the 10 administration. 11 Q And why is it that he's responding to 12 questions seven through eleven of the November 1, 13 2002 letter? 14 A. Because I wasn't here during this time 15 and he was over personnel and Kurtis told me that 16 I could go to him for the answers to those 17 questions. 18 Q And you, in fact, did so? 19 A. Yes. 20 Q And what we have, even though it is 21 and unsigned document, is, to your knowledge, a</p> |
| <p style="text-align: right;">Page 110</p> <p>1 response in any way? 2 A. No, he didn't. 3 Q With respect to the response to 4 question number three, did Kurtis change the 5 response in any way? 6 A. No. 7 Q And Kurtis was not looking at the 8 question number three at the time that he was 9 looking at the response to question number three? 10 A. No, he wasn't. 11 Q With respect to question number four, 12 did he change the response in any way? 13 A. No, he didn't. 14 Q With respect to question number five, 15 did Kurtis change the response in any way? 16 A. No, he didn't. 17 Q With respect to question six, did 18 Kurtis change the response in any other way? 19 A. No, he didn't. 20 Q All right. With respect to the 21 responses that were made to questions seven</p> | <p style="text-align: right;">Page 112</p> <p>1 document that Mr. Chill prepared? 2 A. Yes. 3 Q Responses to questions seven to 4 eleven? 5 A. Yes. 6 Q Or intended at least to be responses 7 to questions seven through eleven. 8 A. Yes. 9 MR HAWA Warmly responding to 10 questions seven through eleven. 11 MR SHOOK Mr. Chill apparently has a 12 wonderful habit of signing his letters warmly? 13 THE WITNESS Yes. 14 BY MR SHOOK 15 Q Did you and Mr. Chill discuss at all 16 the responses that were made to questions seven 17 through eleven? 18 A. No. Nothing other than I told him 19 what I needed. I'm not sure, but I may have 20 showed him the question that I needed to answer. 21 And told him that I was told to contact him for</p> |

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1 the answer. And he told me he would supply me
2 with an answer.
3 Q Do you know whether or not Mr. Chill
4 discussed with Kurtis the answers to questions
5 seven through eleven?
6 A. I don't know.
7 Q There are a number of pages that
8 follow in the December 9 response. And I'd like
9 you to just describe them for the record as you
10 understand them.
11 A. This is our authority to operate in
12 the State of Illinois.
13 Q And what did you understand that to be
14 responsive to?
15 A. It is asking if Business Options was
16 properly registered. And their registration
17 document and their corporate information.
18 Q So the certificate from the State of
19 Illinois was meant by you to be responsive to
20 question two that appears on the November 1, 2002
21 letter?

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1 A. Yes.
2 Q In hindsight, do you have any
3 understanding as to whether or not what you
4 supplied was, in fact, responsive?
5 A. No. It wasn't what you were asking
6 for.
7 Q You understand that now?
8 A. Yes. I understand that now.
9 Q You didn't understand that then?
10 A. No, I didn't.
11 Q What follows the certificate?
12 A. A policy letter concerning our
13 relationship with long distance carriers and
14 local exchange carriers.
15 Q And what did you understand that to be
16 responsive to?
17 A. It was -- I think they were asking
18 for -- number six, provide all documents
19 outlining BOIs policies for complying with -- it
20 was asking for the procedures for monitoring and
21 dismissing employees.

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1 Q And which question was that?
2 A. It was six.
3 Q What about the next page of the
4 response that you submitted to the FCC?
5 A. Standard sales pitch.
6 Q And what was that responsive to?
7 A. Four and five -- number four, provide
8 copies of telemarketing scripts.
9 Q What follows in the response?
10 A. Another sales pitch.
11 Q Also responsive to point four of the
12 November 1, 2002 letter?
13 A. Yes. Objections handling.
14 Q Also responsive to point four?
15 A. Yes. And that's all.
16 Q Knowing what you know now, is there
17 anything that you would do differently as a
18 consequence of receiving a letter similar to the
19 letter of November 1, 2002 from the FCC?
20 A. Now I read everything. And I read on
21 a regular basis all the regs that apply to

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1 telecommunication industry and that has helped
2 out a lot. Also --
3 MR HAWA I assume when you say
4 "anything," you're saying anything internally as
5 opposed to contacting outside counsel, retaining
6 outside counsel?
7 MR SHOOK Right. What she would do
8 herself. And if it comes to contacting outside
9 counsel, if that's part of the response, that's
10 fine I'm not asking for the specific
11 communication.
12 MR HAWA That's not what I was
13 suggesting.
14 THE WITNESS I can't determine
15 whether or not my company gets outside counsel or
16 not, that's --
17 BY MR. SHOOK
18 Q Outside of your area of
19 responsibility?
20 A. Right.
21 Q I'm just saying, if a letter came from

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1 the Federal Communications Commission and it was
2 similar to the November 1, 2002 letter, what
3 would you do?
4 **A. I would, as I said, I'd look up the**
5 **regulations immediately to find exactly what was**
6 **required. And make sure that what I'm supplying**
7 **you with is exactly what you're asking for.**
8 **Q Would you bring this letter to**
9 **Kurtis's attention?**
10 **A. Oh, yes. Most definitely.**
11 **Q Is there anybody else's attention that**
12 **you would bring the letter to?**
13 **A. Since Kurtis is my senior, that's who**
14 **I need to report it to. And I would make sure**
15 **that whatever the response is that I submit, he**
16 **got a chance to review it thoroughly.**
17 **Q There's only a few other matters that**
18 **I'd like to explore. I think we could probably**
19 **do them before breaking for lunch. Did there**
20 **come a time when it came to your attention that**
21 **the State of Kansas had a problem with something**

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1 that Business Options had done?
2 **A. I think a little while after I got**
3 **there, I think I was aware of something that**
4 **happened. I can't remember exactly what it was.**
5 **Q Do you recall whether or not the State**
6 **of Kansas ever proposed to fine Business Options**
7 **\$150,000?**
8 **A. Yes. I remember that.**
9 **Q If you could describe for us how it**
10 **came to be that Kansas proposed such a fine?**
11 **A. I really don't know. I think when I**
12 **got there, it was already in place or I got it a**
13 **few days, you know, within the week that I got --**
14 **that I had started working there. And I told**
15 **Kurtis of the situation. And they requested some**
16 **documents, some financial documents. And I**
17 **remember getting all the documents together and**
18 **forwarding them to Kansas.**
19 **Q Along those lines, the first thing I**
20 **want to show you is an unsigned letter that bears**
21 **a date of November 25, 2002. It's addressed to**

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1 Kristy L. Hiebert, H-I-E-B-E-R-T, and ask if you
2 recognize this letter?
3 **A. Yes.**
4 **Q Is this a letter that you actually**
5 **signed and sent?**
6 **A. I'm not sure. I believe it is, I'm**
7 **not sure though.**
8 **Q There's an indication in the letter**
9 **that certain documents are going to be gathered**
10 **and sent to the State of Kansas by December 13,**
11 **2002. Do you know whether or not you did that?**
12 **A. I sent the document. I don't know if**
13 **I got it out on December 13th, but I'm sure I**
14 **sent it out.**
15 **Q So documents ultimately were sent to**
16 **the State of Kansas?**
17 **A. Yes.**
18 **Q And it may have been a date other than**
19 **December 13th, 2002?**
20 **A. Yes. It could have been, yes.**
21 **(Discussion held off the record.)**

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1 **Q We understand from a discussion off**
2 **the record that the matter that we're talking**
3 **about is not yet final. And some of the dollar**
4 **figures we're talking about now apparently are**
5 **substantially different from those that may**
6 **ultimately be part of any final settlement**
7 **between Business Options and the State of Kansas.**
8 **With that in mind, the next document that I want**
9 **to show you is one dated January 2, 2003 and ask**
10 **whether or not you can identify it?**
11 **A. Uh-huh. Yes.**
12 **Q So the document dated January 2, 2003**
13 **that bears the signature of Shannon Dennie, that**
14 **is your signature?**
15 **A. Yes.**
16 **Q The attachments included in there are**
17 **attachments that you sent to the State of Kansas?**
18 **A. Yes.**
19 **Q Specifically the four matters that are**
20 **referenced in the -- on the first page, the**
21 **letter signed by yourself, U.S. Income Tax Return**

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1 for an S Corporation for 2000, for 2001 and
2 profit-and-loss statement and balance sheet for
3 the years 2000 and 2001?
4 A. Yes.
5 Q Could you describe for us how it came
6 to be that you sent this letter to the State of
7 Kansas.
8 A. I believe before I got there, Bill
9 Brzycki may have offered \$10,000 to settle the
10 matter. I don't think they accepted it. They
11 proposed \$150,000. And then, I think, somehow it
12 was established to them that we couldn't pay
13 that. And then by the time I got involved, they
14 were requesting these documents be sent to them.
15 And then I -- I'm not sure if I got these copies
16 from the accounting or from a file or something.
17 And I sent what they asked for.
18 Q Do you have any understanding as to
19 why it was that only the income tax returns for
20 Business Options were sent and not those for Buzz
21 Telecom?

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1 MR HAWA Rather than object, can you
2 explain the relevance of filings made to Kansas,
3 when, to my knowledge, Kansas hasn't brought
4 anything to the attention of the FCC related to
5 this case in any way?
6 MR SHOOK We're trying to understand
7 the processes by which materials are prepared,
8 reviewed and sent out from Business Options. And
9 in this particular instance, I'm just trying to
10 understand how it was that documents only for
11 Business Options were sent as opposed to those or
12 perhaps in addition to those for Buzz Telecom.
13 MR HAWA Go ahead.
14 THE WITNESS From what I understand
15 now, we were registered in that state as Business
16 Options. And so the tax returns for Business
17 Options were the ones that they asked for. And
18 so those were the ones that I sent them.
19 BY MR SHOOK
20 Q Did you have any understanding in
21 January of 2003 of the interplay, for lack of a

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1 better term, between Business Options and Buzz
2 Telecom?
3 A. I always understood that Business
4 Options was a service and Buzz Telecom was the
5 corporation.
6 Q The corporation that did what?
7 A. The corporation -- the one that
8 actually had the employees. Business Options has
9 no employees.
10 Q Business Options has a product?
11 A. Has a product, exactly.
12 Q That product being long distance
13 telephone service?
14 A. Right.
15 Q That product is the one that generates
16 the income to pay the Buzz Telecom employees?
17 A. Right.
18 Q Did there ever seem to be a problem to
19 you that Buzz Telecom could have as many
20 employees as it did and yet the Business Options
21 tax returns were reflecting gross income less

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1 than \$300,000 for each of the two years that are
2 referenced here?
3 A. No.
4 Q Did you have any idea in January of
5 2003 approximately how many Buzz Telecom
6 employees there were?
7 A. I believe I did. I mean, I worked in
8 the same building with them so I was aware of the
9 employees that I worked with.
10 Q And it never struck you as problematic
11 that the two tax returns reported income of less
12 than \$300,000?
13 A. No. I don't prepare the taxes.
14 Q All right. Let me consult with
15 co-counsel. We may be finished.
16 (A short break was taken.)
17 Q With respect to the January 2, 2003
18 letter that was sent to the State of Kansas, I
19 want you to look at the last five pages. It's
20 really the -- it's four of the five. The last
21 page, you don't need to look at. It's the

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1 previous four pages.
2 Would I be correct that what I'm
3 looking at are the profit-and-loss statement and
4 balance sheet for the years 2000 and 2001?
5 A. Yes.
6 Q Could you tell me what it is you know
7 about how these documents were prepared?
8 A. All I know is, we have an outside
9 accountant that prepares those. And whenever any
10 agencies request that they have a profit-and-loss
11 statement or a balance statement, I contact one
12 of the accountants or the treasury department or
13 someone in financial and they supply me with a
14 copy. And I submit it to whoever requests it.
15 Q I take it from your response that it's
16 not your job to verify the figures that are here?
17 A. No, it's not.
18 Q And who would verify those figures?
19 A. Alan Furmankiewicz.
20 Q Alan Furmankiewicz is the outside
21 accountant who would have prepared the balance

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1 and loss statement so far as you know?
2 A. As far as I know, he prepares the tax
3 returns. And the only person that I can think of
4 that would be involved in preparing would be the
5 people that actually keep the financials.
6 Q And who would that be?
7 A. Rebecca, she's in treasury for Buzz
8 and Brian Bortko.
9 Q I want to show you some documents that
10 we obtained during discovery. And they bear page
11 numbers, Bate Stamps Numbers 06505 through 06507.
12 And what they appear to be is a Business Options
13 balance sheet as of December 31, 2000 and a
14 profit-loss statement January through December,
15 2000. And my first question to you is whether
16 you have ever seen these documents before?
17 A. I can't say for sure.
18 Q Do you have any knowledge as to how
19 the document that you're currently looking at
20 with the Bate Stamp Numbers that we've talked
21 about came to exist?

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1 A. No, I don't.
2 Q If you would, please compare the
3 information that you sent to the State of Kansas
4 for the period January through December of the
5 year 2000, specifically the total income toward
6 the end. This document that you're currently
7 looking at appears to have been generated on
8 December 9, 2002. And for the period January
9 through December of the year 2000, the total
10 income figure reflected is \$280,248.06, do you
11 see that?
12 A. I'm sorry, where are you?
13 Q (Indicating).
14 MR HAWA We don't know the source?
15 MR SHOOK We don't know the source.
16 We know it came from Business Options. We don't
17 know who generated it.
18 MR HAWA This financial information
19 was never filed with the Commission?
20 MR SHOOK No, it was not.
21 MR HAWA Or reported to the

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1 Commission?
2 MR SHOOK Not that I know of.
3 MR HAWA The Federal Communications
4 Commission, that is.
5 MR SHOOK Or any commission, I don't
6 know. All I know is that we got it and it has
7 the Bate Stamp Numbers that appear there.
8 BY MR SHOOK
9 Q You'll see that in the total income
10 figure that was reported to the State of Kansas
11 on the profit-and-loss statement, that figure
12 \$284,246.06 appears. And then with respect to
13 the other profit-and-loss statement that was
14 generated at an unknown time but bears a Bate
15 Stamp of page number 06506, what is the total
16 income figure that you see?
17 A. \$5,363,874.96.
18 Q Do you have any explanation for the
19 disparity between the two figures?
20 A. No, I don't.
21 Q Likewise, I'd like you to look at the

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1 profit-and-loss statement for 2001 that appears
2 in the January 2, 2003 letter that was sent to
3 the State of Kansas. That appears to have been
4 generated on November 21, 2002. And you will see
5 that the total income or gross profit, rather,
6 that's reported is \$254,602.25. You will also
7 note earlier that a total income figure is
8 reported of \$70,917.25, do you see those figures?

9 A. You're looking at the profit and loss,
10 December '01?

11 Q Right. December, 2001.

12 A. Okay. Yes, I see that.

13 Q The document that I want to show you
14 bears Bate Stamp Numbers 06508 through 06510.
15 And on page 06509, the page is titled Business
16 Options Inc. Profit/Loss January through
17 December, 2001. I want you to look at the total
18 income figure and state what you see there.

19 A. \$8,212,348.67.

20 Q My question is, do you have any
21 explanation as to why there is the difference

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1 between what was reported to the State of Kansas
2 and what appears on the profit-and-loss statement
3 that you have in your hand that bears the Bate
4 Stamp Numbers that we read into the record.

5 A. No. I have no information.

6 MR SHOOK I have nothing further.

7 MR HAWA I have nothing

8 (Reading and signing requested.)

9 (Deposition concluded 12:41 p.m.)

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1 CERTIFICATE OF REPORTER/NOTARY PUBLIC

2 STATE OF INDIANA, to wit

3 I, NOVA HOLLISTER, a Notary Public of
4 the State of Indiana, do hereby certify that the
5 within-named witness personally appeared before
6 me at the time and place herein set out, and
7 after having been duly sworn by me, according to
8 law, was examined by counsel

9 I further certify that the examination
10 was recorded stenographically by me and this
11 transcript is a true record of the proceedings

12 I further certify that I am not of
13 counsel to any of the parties, nor in any way
14 interested in the outcome of this action

15 As witness my hand and notarial seal
16 this 28th day of July, 2003

18 Nova Hollister
19 Notary Public

20 My Commission Expires 07-06-09
21

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1 DATE SENT July 28, 2003

2 ERRATA SHEET

3 DEPOSITION OF Shannon Dennie

4 DATE July 16, 2003

5 IN THE MATTER OF Business Options, Inc

6 INSTRUCTIONS

7 1 Please read the transcript of your deposition
8 and make note of any corrections or changes
9 on this Errata Sheet DO NOT mark on the
transcript itself

10 2 Indicate below general reason for change,
such as

11 A To correct stenographic error
12 B To clarify record
13 C To conform to the facts

14 3 Sign the Certificate of Deponent page

15 4 Return this Errata Sheet, along with the
signed Certificate of Deponent page, within
30 days of the Date Sent, to the office
listed below for immediate forwarding to
other counsel in the case

17 PAGE NO LINE NO CORRECTION REASON

18
19

20 COURT REPORTERS, ETCetera, INC
2833 Smith Avenue, #260
Baltimore, MD 21209
21 (410) 653-1115 (202) 628-DEPO (3376)

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1 ERRATA SHEET FOR SHANNON DENNIE

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1 CERTIFICATE OF DEPONENT

2 I hereby certify that I have read and
3 examined the foregoing transcript, and the same
4 is a true and accurate record of the testimony
5 given by me

6 Any additions or corrections that I
7 feel are necessary, I will attach on a separate
8 sheet of paper to the original transcript

9 _____
10 _____
11 _____
12 SHANNON DENNIE
13 _____
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16 _____
17 _____
18 _____
19 _____
20 _____
21 _____

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IN THE MATTER OF: BUSINESS OPTIONS, INC.
Deposition of Shannon Dennie

cost - fee
July 16, 2003

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